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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,758	11/20/2003	Brandon Rickman	30650/39706	8772

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EXAMINER

LOBO, IAN J

ART UNIT PAPER NUMBER

3662

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/717,758

Applicant(s)

RICKMAN, BRANDON

Examiner

Ian J. Lobo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The indicated allowability of claims 9, 10, 19, 20 and 21 is withdrawn in view of the newly applied reference(s) to Lindsey ('514). Rejections based on the newly cited reference(s) follow.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rando ('627).

With respect to instant claim 1, Rando discloses (see Fig. 13C) a measuring apparatus that includes a housing (102), a retractable tape (104) and a laser pointer (10). On col. 12, line 58 – col. 13, line 4, Rando suggests that an acoustic distance measuring device (range finder) may be made integral with the laser pointer to enable accuracy of directional orientation in distance measurements.

It would be obvious to one of ordinary skill in the art, from such a suggestion of Rando, to configure the embodiment of Fig. 13C to include a range measuring device integral with the tape measure. Claim 1 is so rejected.

Per claim 2, see laser device (10).

Per claims 3 and 6, see display 162.

Per claim 4, see the aforementioned col. 12 wherein an acoustic range finder is suggested.

Per claim 5, see switch 156.

Per claim 11, it is argued that any tape measure has a lever to lock the retractable tape.

Per claim 12, it is argued that the measuring apparatus of Rando would measure an internal dimension (with the range finder) and external dimension (with the tape measure).

Per claim 13 see laser device (10).

Per claim 14 see display 162.

4. Claims 7-10 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rando as applied to claims 1-3 and 12-14 above, and further in view of Lindsey ('914).

Claims 7, 8, 17 and 18 specify that the apparatus claimed include a standard and metric button to display the dimension in feet/inches or metric units. Rando does not specify the length dimension measurements in either feet/inches or metric units.

Lindsey discloses an inch/centimeter button (52) that toggles the display between English and metric units of measurements.

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To have provided the measuring apparatus of Rando with a standard and metric button, as taught by Lindsey, would have been obvious to one of ordinary skill in the art to thereby specify length measurements in either English or metric units of

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measurements and thus provide the capability to use the modified Rando system worldwide.

With respect to claims 15 and 16, it is further obvious to one of ordinary skill in the art that using an acoustic range finder with a tape measure would include using a button or switch (i.e, switch 156) to display the length dimensions measured.

With respect to claims 9, 19, 19, 20 and 21, Rando discloses all the claimed structure recited except for a save button configured to direct the dimension measured to be saved in a memory, wherein the memory can save a plurality of dimensions (claims 9, 21), and a toggle button configured to display one of the plurality of saved dimensions in the window each time the toggle button is pressed (claims 10, 21), or the steps of depressing a save button to save a dimension into memory (claim 19) and depressing a toggle button to sequentially review the dimensions saved into the memory (claim 20).

Lindsey discloses a measuring apparatus having a save button (48) and configured to direct the dimension measured to be saved in a memory, wherein the memory can save a plurality of dimensions (col. 3, lines 7-9, 19-20) and a toggle button (50) configured to display one of the plurality of saved dimensions in the window each time the toggle button is saved (col. 3, lines 34-40).

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To have provided the measuring apparatus of Rando with a save button and a toggle button which may be pressed to save a dimension into memory and sequentially review the dimensions saved into the memory, as taught by Lindsey, would have been obvious to one of ordinary skill in the art since it would provide a self-contained

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measuring device for allowing carpenters to record multiple measurements in an integral part of the tae measure for later recall, thereby eliminating (a) the use of pencils and scrap paper to record multiple measurements, (b) the possibility of misplacing the multiple measurements or leaving them in an inconvenient location, and (c) the illegible recording of multiple measurements as suggested by Lindsey in column 1, lines 12-25.

***Response to Arguments***

5. Applicant's arguments filed July 22, 2004 have been fully considered but they are not persuasive.

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Applicant argues that Fig. 13C of Rando does not disclose the combination of a tape measure and ranging device. Fig. 13C shows a tape measure and a laser pointer. On col. 12, line 58 – col. 13, line 4, it is suggested that an acoustic distance measuring device may be made integral with a laser device (pointer). One of ordinary skill in the art would find it to be obvious to take the suggestion of Rando (make ranging device integral with laser pointer) and apply it to the device shown in Fig. 13C of Rando, since such a suggestion would provide for a single measuring device that includes the capability of dual range measurements.

With respect to claims 7-10 and 15-21, the arguments are moot in view of the new grounds of rejection.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian J. Lobo whose telephone number is (703) 306-4161. The examiner can normally be reached on Monday - Friday, 6:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza can be reached on (703) 306-4171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Ian Lobo", is positioned above the printed name.

Ian J. Lobo  
Primary Examiner  
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ijl